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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/742,571	12/20/2000	Stephen J. Boies	YOR920000310 (1963-5012)	8516
7590 04/08/2004			EXAMINER	
Stephen C. Kaufman International Business Machines Corporation P.O. Box 218 Route 134 / 1101 Kitchawan Road Yorktown Heights, NY 10598			ZHONG, CHAD	
			ART UNIT	PAPER NUMBER
			2154	
DATE MAILED: 04/08/2004				

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/742,571

Applicant(s)

BOIES ET AL.

Examiner

Chad Zhong

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 20 August 2002.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-37 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-37 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- ☒ Notice of References Cited (PTO-892)
- ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____
- ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____
- ☐ Notice of Informal Patent Application (PTO-152)
- ☐ Other: _____

DETAILED ACTION

1. Claims 1-37 are presented for examination.
2. The specification is objected to because of the following:

current US patent policy does not permit the use of hyperlinks in the specification. Such links are directed to an Internet site, the contents of which are subject to change without notice. Therefore, the potential for inclusion of new matter would be a constant problem. See page 2, 10, for example. Correction is required.

Claim Rejections - 35 USC § 112, second paragraph

3. Claims 1-37 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.
 - a. The following terms lack antecedent basis:
 - i. the unused capacity– claim 1, 26, 32.
 - ii. the additional capacity – claim 1, 26, 32.
 - iii. said purchaser – claim 9, 26.
 - iv. the traffic – claim 3, 28, 34.
 - v. the limit – claim 3, 28, 34.
 - vi. the name to address mapping – claim 4, 11, 29.
 - vii. the proxy server – claim 4.
 - viii. the proxy network – claim 5.
 - ix. the primary domain name server – claim 5, 12, 30, 36.
 - x. the amount – claim 6, 13.
 - xi. the remaining mapping requests – claim 7, 8, 15, 16.
 - xii. the servers – claim 7, 15, 21, 24.

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- xiii. the additional step – claim 10.
 - xiv. the only domain name server – claim 12, 30.
 - xv. the received mapping requests – claim 13.
 - xvi. the load level – claim 14.
 - xvii. the financial charge – claim 17.
 - xviii. the actual number – claim 20, 26.
 - xix. the remaining object requests – claim 20, 24, 25.
- b. The claim language in the following claims is murky or not clearly understood:
- i. As per claim 1, line 4, it is not clearly understood whether “a proxy server” refers to “a proxy server” in claim 1, line 1 (i.e. if they are the same, the word such as “said” or “the” must be used);
 - ii. As per claim 4, line 2, it is not clearly understood whether “a domain name server” refers to “a domain name server” in claim 4, line 2 (i.e. if they are the same, the word such as “said” or “the” must be used);
 - iii. As per claim 11, line 2, it is not clearly understood whether “a domain name server” refers to “a domain name server” in claim 11, lines 1-2 (i.e. if they are the same, the word such as “said” or “the” must be used);
 - iv. As per claim 26, line 5, it is not clearly understood whether “a proxy server network” refers to “a proxy server network” in claim 26, line 3 (i.e. if they are the same, the word such as “said” or “the” must be used);
 - vi. As per claim 29, line 3, it is not clearly understood whether “a domain name server” refers to “a domain name server” in claim 29, line 2 (i.e. if they are the same, the word such as “said” or “the” must be used);
 - vii. As per claim 35, line 3, it is not clearly understood whether “a domain name server” refers to “a domain name server” in claim 35, line 2 (i.e. if they are the same, the word such as “said” or “the” must be used).

Claim Rejections - 35 USC § 102

4. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the

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basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless --

(e) the invention was described in a patent granted on an application for patent by another filed in the United States before the invention thereof by the applicant for patent, or on an international application by another who has fulfilled the requirements of paragraphs (1), (2), and (4) of section 371 (c) of this title before the invention thereof by the applicant for patent.

5. Claims 1-7, 9-15, 17, 19-21, 23, 24, 26-37 are rejected under 35 U.S.C. 102(e) as being anticipated by Oliver et al. (hereinafter Oliver), US 2002/0133412.

6. As per claim 1, Oliver teaches a method for dynamically reconfiguring a proxy server network to deliver content by dynamically selling extra capacity, comprising the steps of:

determining the unused capacity on a proxy server network for a period of time (pg 4, [0077], lines 4-8; pg 5, [0100], lines 9-10, lines 16-17);

selling the said unused capacity for a specified period of time to web sites or other service providers which need the additional capacity (pg 6, [0120], lines 5-13);

using said unused capacity to serve requests to the said purchaser purchasing the extra capacity for said period of time (pg 6, [0120], lines 5-13).

7. As per claim 2, Oliver teaches the method of claim 1, wherein the selling method of the unused capacity can be through market-based mechanisms (pg 2, [0037]).

8. As per claim 3, Oliver teaches the method of claim 1, comprising the additional step of providing a controller to monitor and control the traffic from the purchaser to be within the limit of the capacity purchased (pg 5, [0113]; pg 14, [0332]).

9. As per claim 4, Oliver teaches the method of claim 3, wherein said controller uses a domain name server based approach wherein a domain name server performs the name to address mapping for assigning the request to the proxy servers (pg 5, [0113]).

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10. As per claim 5, Oliver teaches the method of claim 4, wherein the said domain name server based approach makes the domain name server of the proxy network the primary domain name server, which is the only domain name server that can assign names to the proxy servers (pg 5, [0113]).

11. As per claim 6, Oliver teaches the method of claim 5, wherein said domain name server based approach further comprises the steps of:

the domain name server of the purchaser World Wide Web site routing the name to address map of said purchaser World Wide Web site to said domain name server of the proxy network (pg 5, [0113]; pg 10, [0249]-[0260]); and

said primary domain name server mapping a fraction of the received mapping requests to servers in the proxy network based on the amount of unused capacity purchased (pg 10, [0261]; pg 11, [0275], lines 15-19).

12. As per claim 7, Oliver teaches the method of claim 6, wherein the remaining mapping requests which were not mapped to servers in the proxy network are returned by said primary domain name server to said domain name server of the purchaser World Wide Web site to be mapped to one of the servers of the purchaser's World Wide Web site (pg 6, [0120], lines 11-13; pg 17, [0390]).

13. As per claim 9, Oliver teaches the method of claim 1, wherein said unused capacity can be based on an estimate of the usage of the proxy server network over time and said unused capacity can be provided based on the best efforts of the proxy server network (pg 4, [0081], [0082]; pg 10, [0265], [0267]; pg 11, [0275], lines 15-19).

14. As per claim 10, Claim 10 is rejected for the same reasons as rejection to claim 3 above.

15. As per claim 11, Claim 11 is rejected for the same reasons as rejection to claim 4 above.

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16. As per claim 12, Claim 12 is rejected for the same reasons as rejection to claim 5 above.

17. As per claim 13, Claim 13 is rejected for the same reasons as rejection to claim 6 above.

18. As per claim 14, Oliver teaches the method of claim 13,, wherein said domain server of the proxy network monitors the load level on the proxy servers to adjust said fraction based on said unused capacity on the proxy server at any given time (pg 10, [0267]; pg 6, [0133]).

19. As per claim 15, Claim 15 is rejected for the same reasons as rejections to claim 7 above.

20. As per claim 17, Oliver teaches the method of claim 9, wherein said financial charge will be based on the purchaser World Wide Web site's actual usage of the unused proxy capacity (pg 11, [0275], lines 15-19).

21. As per claim 19, Oliver teaches the method of claim 2, wherein the selling method consists of selling the unused proxy capacity through a real-time continuous market (pg 4, [0077]; pg 3, [0039]).

22. As per claim 20, Oliver teaches the method of claim 5, wherein said controller sets the fraction of requests to be served by the proxy network, comprising the steps of:

setting an initial value based on a number provided by the purchaser World Wide Web site on the fraction of total requests needed to be routed to the proxy servers (pg 10, [0256]);

monitoring the actual number of World Wide Web object requests served by the proxy servers (pg 10, [0267]; pg 6, [0133]);

adjusting the fraction of World Wide Web object requests served so that the actual number of World Wide Web object requests served does not use more proxy server capacity than was purchased (pg 10, [0261]; pg 11, [0275], lines 15-19; pg 5, [0100], lines 9-17).

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23. As per claim 21, Claim 21 is rejected for the same reason as rejection to claim 7 above.

24. As per claim 23, Oliver teaches the method of claim 5, wherein said controller sets the fraction of requests to be served by the proxy network, comprising the steps of:

setting an initial value based on an estimate provided by the purchaser World Wide Web site on the fraction of total requests needed to be routed to the proxy servers (pg 10, [0256], [0255], [0265]);

monitoring the actual number of World Wide Web object requests served by the proxy servers (pg 10, [0267]; pg 6, [0133]);

adjusting the fraction of World Wide Web object requests served so that the actual number of World Wide Web object requests served does not use more proxy server capacity than was purchased (pg 10, [0261]; pg 11, [0275], lines 15-19; pg 5, [0100], lines 9-17).

25. As per claim 24, Claim 24 is rejected for the same reason as rejection to claim 7 above.

26. As per claims 26 and 32, Claim 26 and 32 are rejected for the same reason as rejection to claim 1 above.

27. As per claims 27 and 33, Claims 27 and 33 are rejected for the same reasons as rejection to claim 2 above.

28. As per claims 28 and 34, Claims 28 and 34 are rejected for the same reasons as rejection to claim 3 above.

29. As per claims 29 and 35, Claims 29 and 35 are rejected for the same reasons as rejection to claim 4 above.

40. As per claims 30 and 36, Claims 30 and 36 are rejected for the same reasons as rejection to claim 5 above.

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41. As per claim 31 and 37, Claims 31 and 37 are rejected for the same reasons as rejection to claim 6 above.

Claim Rejections - 35 USC § 103

41. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

42. Claims 8, 16, 18, 22, and 25 are rejected under 35 U.S.C. 103(a) as being unpatentable over Oliver et al. (hereinafter Oliver), US 2002-0133412, in view of 'Official Notice'.

42. As per claim 18, Oliver does not teach the method of claim 2, wherein said selling method consists of selling the unused proxy capacity through an auction. However 'Official Notice' is taken by the Examiner that an online auction is notoriously well known. It would have been obvious to have used an online auction for the current invention, because doing so would make the current system more profitable, with the business framework already in place (i.e. credit card service, among various billing services), an online auction would be an economical choice to promote the service.

42. As per claims 8, 16, 22, and 25, Oliver does not teach wherein the remaining mapping requests which were not mapped to servers in the proxy network are assigned by said primary domain name server to servers in the purchaser World Wide Web site using an assignment algorithm provided by said domain name server of the purchaser World Wide Web site. However 'Official Notice' is taken by the Examiner that an assignment algorithm is notoriously well known. It would have been obvious to have used an assignment algorithm for the current invention, because doing so would be less burdening for the purchaser of World Wide Web units, through the use of assignment algorithm for alleviate processing

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needed on the purchaser side, thereby improving efficiency and speed. Furthermore, usage of alphanumeric numbers identifying individual users (pg 10, [0249]) would be used for similar purposes as the assignment algorithm, thus providing the proxy side domain name service with the capability to return unused data request back to their respective originator.

Conclusion

43. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

The following patents and publications are cited to further show the state of the art with respect to

“Dynamic Proxy Reconfiguration Method To Support Sharing Of Extra Capacity”

- i. US 5935248 Stern et al.
- ii. US 6154211 Kamachi et al.
- iii. JP 11-032085 Tunnicliffe et al.
- iv. Proceedings of the 19th International Conference for the Management and Performance Evaluation of Enterprise Computing Systems. “Client server capacity planning challenges”, Major, Joseph B. 1994.
- v. “WebOS: Operating system services for wide area applications”, Vahdat et al. 1998
- vi. “Value added IP Services in a Wholesale Environment.” Cosine Communications, 1998.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Chad Zhong whose telephone number is (703) 305-0718. The examiner can normally be reached on M-F 7am-4:30pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, John A Follansbee can be reached on 703-305-8498. The fax phone numbers for the organization where this application or proceeding is assigned are 703-746-7239 for regular communications and 703-746-7238 for After Final communications.

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Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-305-3900.

CZ
March 17, 2004



ZARNI MAUNG
PRIMARY EXAMINER